



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/526,100	03/15/2000	Steven Sheppard	6019.3026	9168

26291 7590 03/06/2007
PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY, NJ 07702

EXAMINER

USTARIS, JOSEPH G

ART UNIT	PAPER NUMBER
----------	--------------

2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/526,100	Applicant(s) SHEPPARD ET AL.	
	Examiner Joseph G. Ustaris	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the Pre-Brief Conference Decision dated January 12, 2007 in application 09/526,100.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez (US005812184A).

Regarding claim 39, Martinez discloses the IR module 24 (optical receiver for decoding the...corresponding pulse train) sends the optical signal to an AND gate 59 (bias switch...to the pulse train) and the signal is sent to the modulator 65 and oscillator 63 (column 9, lines 8-20, figure 6); the combination of the modulator 65, oscillator 63, and crystal 61 reads on the claimed oscillator that modulates a signal to produce an RF signal. The AND gate receives pulse trains from the optical receiver 24 that are logic high "1's" and output the logic high to the modulator 65, then the modulator 65, oscillator 63, and crystal 61 responds to the logic high pulse train and convert the signal into an electrical signal, which meets the limitation on the optical receiver and the oscillator coupled to the bias switch.

Art Unit: 2623

Martinez discloses the TRM 22 connects to the television (column 8, lines 21-41; figures 4, 5). Martinez discloses an isolator 47 (column 9, lines 8-20), which meets the limitation on a diplex filter injecting in the direction of the residential gateway. However, Martinez does not explicitly disclose that the "bias switch" turns on and off solely in response to the pulse train.

Martinez does disclose that is system is able to send the viewer responses on a dedicated channel (See col. 5 lines 41-45). Therefore it would have been obvious, in a dedicated channel environment, that the TDM slot selector would always provide a constant gating signal (since there is a dedicated channel instead of a time slot) so that the response data can be modulated onto the cable, thereby making the system compatible with future digital CATV delivery systems (See col. 5 lines 41-45). The AND gate would only turn on when response data is present or "turns on and off solely in response to the pulse train".

Regarding claim 40, Martinez fails to disclose an attenuator connected between an oscillator and diplexer.

The examiner takes Official Notice that attenuators are notoriously well known in the art for attenuating a signal. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martinez to have a attenuator between the oscillator and the diplexer filter in order to limit the signal coming into the oscillator to prevent the diplexer filter from injecting too large of a signal to the residential gateway.

Regarding claim 41, Martinez discloses the TRM 22 (optical conversion device, figures 6 & 4) is connected to a TV via converter box 18 and the user uses remote

Art Unit: 2623

control 20 (column 8, lines 21-41); the receiver 49 of the TRM 22 detects the channel in which the receiver is tuned (column 8, lines 42-64), which meets the limitation on controlling the channel selection with the remote control.

Regarding claim 42, Martinez discloses the RF carrier generated by the oscillator 63 and crystal 61 is sent downlink on the cable 7 (media) via isolator 47 (diplexer filter) (column 9, lines 8-20). Martinez discloses the cable 7 connects to the CATV converter (figure 6) and the CATV converter is placed on top of the TV (figure 4) and receives signals from a network (figure 5), which meets the limitation on the diplexer filter injects the RF signal onto the media in the direction of the direction of a residential gateway that controls communications between the television and a telecommunications network.

Regarding claim 43, Martinez discloses the stand-alone response module 22 is placed on top of TV and uses a coaxial cable (figures 4, 5; column 8, lines 22-41).

Regarding claims 44, the limitations in claim 44 have been met in claims 39 and 41-43 rejections.

Regarding claim 45, the limitations in claim 45 have been met in claim 40 rejection.

Response to Arguments

3. Applicant's arguments, see Pre-Brief Conference Request, filed November 22, 2006, with respect to the rejection(s) of claim(s) 39-45 under 35 U.S.C. 103(a) as being unpatentable to Martinez have been fully considered and are persuasive. Therefore,

the rejection has been withdrawn in order to find support for the Official Notice.

However, upon further review of Martinez, it is found that Martinez provides a dedicated channel environment (See col. 5 lines 41-45).

Applicant also argues that the modification to the TDM slot selector would destroy Martinez. However, this is not the case. Martinez does disclose that each user can only transmit when no one else is transmitting on that channel, however this only applies in a time slot environment. Martinez also discloses that the system can use a dedicated channel environment instead of time slot environment (See col. 5 lines 41-45). Furthermore, since Martinez utilized a dedicated channel to deliver response data there will be no noise injected over the video data during a vertical or horizontal blanking interval.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 2623

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 09/526,100

Page 7

Art Unit: 2623

JU

JGU

March 1, 2007

h#Bel

SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER
Acting SPE